

C H A P.
CXIII.

ditors shall and may have remedy by virtue of this act against such devisee or devisees alone, and against the lands, tenements and hereditaments, so devised, in such like cases, and under such circumstances, as such creditor or creditors might or could have remedy under the said statute where the heir or heirs at law could or should be joined in such action or actions, according to the directions of the said statute.

C H A P. CXIV.

Passed January
21.

An ACT relative to proceedings in the court of chancery and land-offices, and to the real estates of persons dying intestate.

Preamble.

WHEREAS the late act to direct descents hath rendered it in many cases difficult, on account of the great number of heirs, to obtain such decree against heirs as might be obtained against the ancestor if alive,

On any bill
filed, chan-
cellor may
pass an order,
&c.

II. *Be it enacted, by the General Assembly of Maryland,* That on any bill in the court of chancery filed, or to be filed, against the heirs of any person deceased, the chancellor, at his discretion, may, on the appearance of such person or persons as would have been sole heir or only heirs in case the said act had not been made, pass an order, to be published in some convenient news-paper at least three weeks successively, giving notice of the substance and object of the bill, and appointing a day, not less than four months subsequent to the publication, for each of the heirs to appear and shew cause, wherefore a decree should not pass, as prayed; and on proof to the chancellor's satisfaction of the due publication, the suit may be carried on between the complainant and the defendant appearing as aforesaid, and any other heirs or heir appearing in consequence of the notice, and there may be the same decree, and it shall have the same effect, as if the heirs of the person deceased had appeared and defended the suit; provided nevertheless, that the answer of the heir or heirs appearing, shall not operate against any absent heir, otherwise than if such absent heir had appeared, and defended the suit, but the chancellor, on application of the complainant, may, at discretion, either take the bill *pro confesso* as to all absent heirs of the deceased, or direct a commission to issue for taking depositions *ex parte*, and receive such proof as he may think proper; provided also, that if any heir of the deceased shall, in person or by a solicitor, appear in court at any time before a decree shall be passed, and shall, on or before the fourth day of the subsequent term, put in a good and sufficient answer to each interrogatory stated in the bill, or a good plea or demurrer to the same, the proceedings shall thereafter be the same as if such heir had regularly appeared to a summons; and if at any time within nine months after a decree passed without his appearance, any heir shall appear, and file a petition, praying the chancellor to set aside the decree, and likewise answer, plead or demur as aforesaid, the chancellor shall accordingly annul the decree as to such heir, and there shall be the same proceedings for the purpose of deciding the cause on its merits, as if the said heir had regularly appeared to a summons.

And in cer-
tain cases di-
rect publica-
tion, &c.

III. *And be it enacted,* That in case a *subpœna* to a bill in chancery shall be regularly returned *non est* by the sheriff of any county within the state where the defendant shall be known, or generally supposed to reside, and the chancellor shall be satisfied, by the affidavit of some indifferent person or persons, of the said known or supposed residence, and of the defendant's having avoided, or kept out of the way of the sheriff, or evaded the service of the *subpœna*, the chancellor, on motion, may direct publication to be given in some news-paper convenient to the known or supposed residence of the defendant, at least three weeks successively, of the filing of the bill, and of its substance and object, and of the same day by him fixed, not less than four months subsequent to the publication for the defendant's appearance in court, either in person or by solicitor; and in the defendant's failing to appear, and on satisfactory proof of the notice published, the chancellor, on motion, may proceed in the same manner as is prescribed by law in the case of a bill filed against a nonresident; provided, that the said defendant have the same privilege, as is herein before given to an absent heir, to appear, either before or after a decree; and every part of the provision here contained